



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,587	10/30/2003	John Wirth JR.	3584-33	7205
23117	7590	04/07/2006	EXAMINER	
NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203			NGUYEN, PHONG H	
			ART UNIT	PAPER NUMBER
			3724	

DATE MAILED: 04/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/696,587	WIRTH ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Phong H. Nguyen	3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 19 January 2006.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-18 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) 13 and 14 is/are allowed.  
 6) Claim(s) 1-6 and 11-16 is/are rejected.  
 7) Claim(s) 7-10, 17 and 18 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1.) Certified copies of the priority documents have been received.  
 2.) Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3.) Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

1. In view of the Appeal brief filed on 01/19/2006, PROSECUTION IS HEREBY REOPENED. New grounds of rejections are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

***Claim Rejections - 35 USC § 102***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1-4 and 11-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Sizemore (6,739,075 B2).

Regarding claims 1-4, Sizemore teaches a shoe capable of being used as a push block device for displacing a workpiece relative to woodworking equipment, comprising: a main body having a proximal end, a distal end, a longitudinal axis, and a first, generally flat working surface 4; a handle component 2 extending from the main body whereby

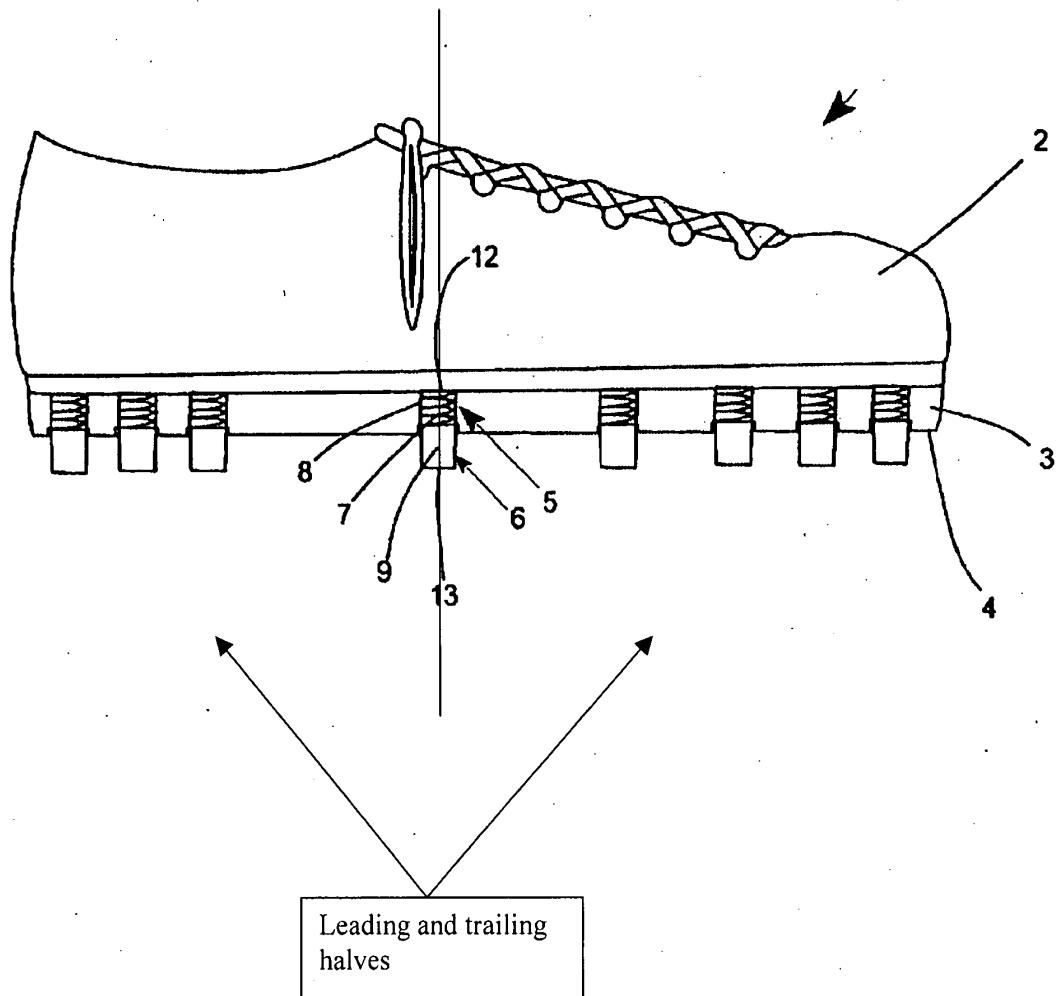
when the first working surface is disposed in parallel facing relation to a top surface of a workpiece, the handle component is disposed predominantly vertically above the main body; and a heel component 6 extending from the main body so as to have a first, operative position, wherein the heel projects vertically below a first plane of the first working surface, and a second, stored position wherein the heel is disposed in or vertically above the first plane, the heel defining a second working surface disposed in a second plane defined at an angle with respect to the first working surface.

See Fig. 1.

Regarding claim 11, the retention plate (the plate on the top of element 3) is best seen in Fig. 1.

Regarding claim 12, element 3 is considered a slip resistant pad since it is made of rubber. See Fig. 1 and col. 2, lines 47-55.

Regarding claim 15, see attached Fig. 1.



*Claim Rejections - 35 USC § 103*

4. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sizemore in view of Misevich et al. (4,897,937), hereinafter Misevich.

Misevich teaches a shoe capable of being used as a push block device for displacing a workpiece relative to woodworking equipment, comprising: a main body having a proximal end, a distal end, a longitudinal axis, and a first, generally flat working surface 4; a handle component 2 extending from the main body whereby when the first

working surface is disposed in parallel facing relation to a top surface of a workpiece, the handle component is disposed predominantly vertically above the main body; and a heel component 6 extending from the main body so as to have a first, operative position, wherein the heel projects vertically below a first plane of the first working surface, and a second, stored position wherein the heel is disposed in or vertically above the first plane, the heel defining a second working surface disposed in a second plane defined at an angle with respect to the first working surface.

See Fig. 1.

Sizemore fails to teach molding a slip resistant pad over the working surface 4. Misevich teaches molding a slip resistant pad over a working surface. See col. 2, lines 2-15. Therefore, it would have been obvious to one skilled in the art to mold a slip resistant pad over a working surface as taught by Misevich to the Sizemore's shoe to prevent slipperiness.

5. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sizemore in view of Hammerschmidt (5,369,895)

Sizemore teaches the invention substantially as claimed except for a method of making the main body and the handle. Hammerschmidt teaches molding plastic to make a main body and a handle. See col. 2, lines 43-50. Therefore, it would have been obvious to one skilled in the art to manufacture the main body and the handle of Sizemore by molding plastic as taught by Hammerschmidt since such practice is well known in the art.

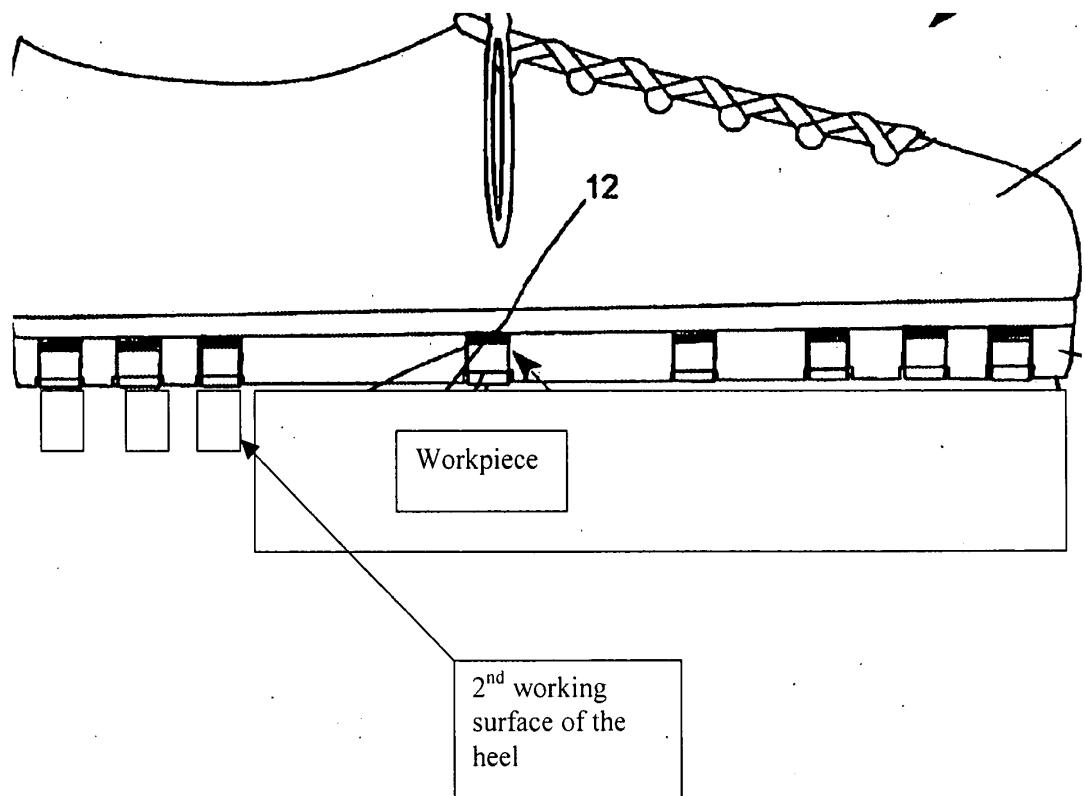
***Allowable Subject Matter***

6. Claims 13 and 14 are allowed.
7. Claims 7-10, 17 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

8. Applicant's arguments filed on 09/01/2005 with respect to Sizemore have been fully considered but they are not persuasive.

Although the Sizemore's shoe is not a push block, it is capable of being used to push a workpiece. Sizemore teaches a second working surface capable of engaging a trailing surface of a workpiece for advancing the workpiece. See below sketch.



*Conclusion*

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

Art Unit: 3724

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phong H. Nguyen whose telephone number is 571-272-4510. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PN: *pn*

September 22, 2005



Allan N. Shoap  
Supervisory Patent Examiner  
Group 3700